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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

BROOKLYN OFFICE

-----X
ANDY REESE,

Plaintiff,

MEMORANDUM AND ORDER

-against-

09-CV-3816 (SLT) (RLM)

MICHAEL ASTRUE,
Commissioner of Social Security,

Defendant.
-----X

TOWNES, United States District Judge:

Pro se plaintiff Andy Reese brings this action under 42 U.S.C. § 405(g) for judicial review of a final decision of the Commissioner of Social Security, denying his applications for disability benefits and Supplemental Security Income. On July 2, 2010, the Commissioner moved for judgment on the pleadings pursuant to Rule 12(c) of the Federal Rules of Civil Procedure. (Docket No. 11). Plaintiff did not respond, and on July 16, 2010, this Court referred the motion to Magistrate Judge Roanne L. Mann.

On October 20, 2010, Judge Mann issued a Report and Recommendation ("R&R"), finding the administrative record to be incomplete with regard to the question of Plaintiff's substantial gainful activity and recommending that the case be remanded for further proceedings. (Docket No. 15). Specifically, Judge Mann concluded that the record is incomplete as to whether Plaintiff has been performing more than de minimus job duties and whether his employer has afforded him special accommodations. The Court has not received any objections. For the following reasons, the R&R is adopted in its entirety.

It is well settled that "[w]hen evaluating the report and recommendation of a magistrate judge, the district court may adopt those portions of the report to which no objections have been

made and which are not facially erroneous.” Morpurgo v. Incorporated Village of Sag Harbor, 697 F. Supp. 2d 309, 315 (E.D.N.Y. 2010) (quoting Walker v. Vaughan, 216 F. Supp. 2d 290, 291 (S.D.N.Y. 2002)). In this case, the Court has reviewed Judge Mann’s R&R and found no clear error.

CONCLUSION

Accordingly, the Court adopts Judge Mann’s Report and Recommendation dated October 20, 2010 (Docket No. 15), in its entirety pursuant to 28 U.S.C. § 636(b)(1). The Commissioner’s motion for judgment on the pleadings (Docket No. 11) therefore is denied, and the matter is remanded for further proceedings.

SO ORDERED.

SANDRA L. TOWNES
United States District Judge

Dated: November 16, 2010
Brooklyn, New York